



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/446,202 12/16/99 ROSELLE

E 6741

IM22/1011

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EXAMINER

PRATT, H

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

10/11/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/446202

Applicant(s)

Examiner

Pratt, Helen

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-15
- ☐ Other _____

Office Action Summary

Application/Control Number: 09/446,202

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roselle (WO 97/15202).

Roselle discloses a process of cleaning fruits and vegetables with a liquid composition containing carbonates, detergent surfactants such as oleates, alcohol ethoxylates and neutralized phosphoric acid which is sprayed onto vegetables and buffers and other ingredients (page 3, lines 10-35 and abstract and page 5, lines 24-40 and page 6, lines 1-25). Claim 1 differs from the reference in the limitation of not needing to rinse the food which has been treated with the claimed composition in dilute amounts. The reference only requires rinsing in the preferred embodiment (page 14, lines 27-30). As the ingredients are the same, it is seen that the composition of the reference would not need to be rinsed off as the reference discloses that the composition can also be wiped off with a cloth, etc. As the toxicology is known for the various ingredients, it would have been within the skill of the ordinary worker to use dilute amounts in order to make the food safe for consumption depending on what level of cleanliness is required (pages 14 and 15).

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Therefore, it would have been obvious to clean a food, with the claimed composition in dilute amounts.

Claim 2 further requires various amounts of ingredients which are disclosed by the reference (pages 21 and 22). Therefore, it would have been obvious to use known ingredients in particular amounts.

Claim 3 further requires using less than 0.2% of an anionic detergent surfactant to reduce the viscosity to less than 50 cp, particular PH's and amounts of calcium sequestrant. The reference discloses the use of "up to 0.2%" which reads on the claimed amount and the composition has less than 50 cp (page 21, claim 2(e), page 22, claim 9). The pH can be from 9.5 to 12.3 which is within the claimed range. It is seen that it would have been within the skill of the ordinary worker to determine the amount of sequestrant used for its known function. The discovery of an optimum value of a result effective variable is ordinary within the skill of the art. In re Boesch, 617 F.2d 272, 276, 205 USPQ 215,219 (CCPA 1980). In developing a cleansing composition for foods, properties such as taste and antibacterial action is important. It appears that the precise ingredients as well as their proportions affect taste and antibacterial action and, thus, are result effective variables which one of ordinary skill in the art would routinely optimize. Therefore, it would have been obvious to make a composition with the claimed dilution of ingredients.

Claim 4 further requires less than 0.1% of a soap. The reference discloses that 0.1% is required for acceptable cleaning. The further amounts would have been within the skill of the

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ordinary worker to vary as in claims 5-6, 8-11 as discussed above. Therefore, it would have been obvious to use a particular amount for acceptable cleaning.

Claim 7 further requires a particular dilution of from 0.1% to 5% by weight. The reference discloses that it can be best diluted 2 or three times or full strength and wiped or rinsed off (page 14, lines 31-40 and page 6, lines 26-34) or used in high concentrations and or longer exposure times. However, this depends on the degree of sanitation required (I. e. microorganisms killed). Certainly, it would have been within the skill of the ordinary worker to use less of the composition, to cleanse the product which has been shown to remove wax and not kill microorganisms. Certainly, some microorganisms are removed just in the spraying and wiping of the product. Therefore, it would have been obvious to use more dilute solutions depending on the degree of cleansing required.

Claims 12-14 are to a concentrated mixture whose limitations have been shown above and are obvious for those reasons except for the concentration. However, it would have been within the skill of the ordinary worker to use known ingredients at various concentrations depending as above on the degree of cleansing required, especially as the function of each ingredient is known. Therefore, it would have been obvious to use various concentrations for their known functions.

Claims 15-21 require a dilute composition whose limitations have been discussed above and are obvious for those reasons. Certainly, as in claim 21 nothing is unobvious as in using impure water which is what is used whenever one squirts dish detergent into water or in the use of

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a suds suppressor in claim 20. Therefore, it would have been obvious to use known ingredients in various dilutions and impure water to make the claimed composition.

INFORMATION DISCLOSURE FORM

No form 1449 has been furnished.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Pratt whose telephone number is (703) 308-1978. The examiner can normally be reached on Monday-Fridays from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Gabrielle Brouillette, can be reached on (703) 308-0756. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718. The fax number for **AFTER FINAL FAXES** is **703-305-3599** and for informal faxes 703-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661



Helen Pratt, Primary Examiner